

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the beginning of the periodic review, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Prepared By	Jurisdiction	Date	
ESA and County Staff	<u>Clallam County</u>	September 13, 2021	
Row	Summary of change	Review	Action
2021			
a.	The Legislature amended floating on-water residences provisions	SMP 3.8.2(6) prohibits overwater or floating residences.	No action needed.
b.	The Legislature clarified the permit exemption for fish passage projects	SMP 3.11.2(5c) specifies fish passage identified in Fish Passage designs.	No action needed.
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	SMP 4.2.5 addresses docks accessory to residential development but does not specify the cost threshold; SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the freshwater dock threshold is established	<u>No action needed</u>
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (applies to 9 jurisdictions)	SMP 4.3.3 (2) requires dredge disposal activities to comply with the DMMP;	<u>No action needed.</u>
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where fish habitat enhancement projects cite to RCW 77.55.181 that lists kelp, eelgrass & native oyster restoration.	<u>No action needed.</u>
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the total cost/fair market value dollar threshold is established; SMP 11.S.327 definition for 'substantial development'	<u>No action needed.</u>

		cites to the "inflation-adjusted value threshold set by the Washington State Office of Financial Management" and RCW 90.58.030(3)(e) where the cost threshold is established.	
b.	Ecology permit rules clarified the definition of "development" does not include dismantling or removing structures.	<u>SMP 11.D.89</u> definition for 'development' includes the clarification;	<u>No action needed.</u>
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	<u>SMP 1.7(2) Exceptions to Applicability</u> address these exceptions per WAC 173-27-044 and -045	<u>No action needed.</u>
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	<u>SMP 10.3.5 (1)</u> requires permit filing per direct citation to WAC 173-27-130.	<u>No action needed</u>
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	<u>SMP 3.4.2(3)</u> specifies that other timber harvest activities that qualify as 'development' require an SDP or CUP as indicated by Use Table 2-2; <u>SMP 11.F.135</u> definition for 'forest practice' does not include the clarification.	<u>No action needed</u>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<u>SMP 1.8(1.b)</u> excludes the in-water and upland areas of Olympic National Park from SMP jurisdiction; <u>2.3(3.b)</u> Aquatic SED and <u>2.4(5)</u> Natural SED management policies repeat that such areas are not subject to the SMP with citation to RCW 37.08.210 that establishes exclusive federal jurisdiction for the Park.	<u>No action needed.</u>
g.	Ecology clarified "default" provisions for nonconforming uses and development.	<u>SMP 5.1</u> establishes provisions for existing uses and developments, structures and vegetation.	<u>No action needed.</u>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	<u>SMP 1.10(3)</u> specifies the periodic review requirement with citation to RCW 90.59.080, WAC 173-26 and -27.	<u>No action needed.</u>

- i. Ecology adopted a new rule creating an **optional SMP amendment process** that allows for a shared local/state public comment period.
- j. **Submittal** to Ecology of proposed SMP amendments.

SMP 10.6 addresses SMP amendments but does not specify the optional joint review process.

No action needed;
The optional joint review process of WAC 173-26-104 may be utilized even if not included in the SMP.
No action needed;
The submittal requirements of WAC 173-26-110 apply regardless of SMP inclusion.

2016

- a. The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**.
- b. Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.

SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the ADA retrofitting item is established.

No action needed.

SMP 7.4(4) requires use of the 2014 Wetland Rating System; SMP 7.5(2) allows reduction of Table 7-4 wetland buffers with use of Table 7-5 minimization methods and a wildlife corridor; SMP 7.5(7) requires mitigation for buffer averaging; SMP 8.3 establishes general mitigation requirements; and SMP 8.5 specifies wetland mitigation requirements.

No action needed.

2015

- a. The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.

SMP 3.11 addresses Transportation use & development; and SMP 10.2 establishes permit review provisions; Neither section specifies the 90-day review target for WSDOT projects.

No action needed;
The special permit review procedures of WAC 173-27-125 (per RCW 47.01.485) still apply regardless of SMP inclusion.

2014

- a. The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.

SMP 3.8.2(6) prohibits in-water, overwater or floating residences & ADUs; Residential Use Table 2-1 prohibits 'floating homes' in all SEDs; and SMP 11.F.127 definition of

No action needed;

2012

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| <p>a. The Legislature amended the SMA to clarify SMP appeal procedures.</p> | <p><u>'floating house/home' includes citation to RCW 90.58.270 where floating on-water residences and floating homes are defined by statute.</u></p> <p>SMP 10.6 addresses SMP amendments with mention of appeals to the WWGMHB and citation to RCW 90.58.190 where SMP appeal procedures are established.</p> | <p><u>No action needed.</u></p> |
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2011

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| <p>a. Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual.</p> | <p>SMP 7.4(3) requires <u>delineations per citation to WAC 173-22-035 where the use of the 'approved federal wetland delineation manual and applicable regional supplements' is established.</u></p> | <p><u>No action needed.</u></p> |
| <p>b. Ecology adopted rules for new commercial geoduck aquaculture.</p> | <p>SMP 3.2.3 establishes <u>regulations specific to commercial geoduck aquaculture.</u></p> | <p><u>No action needed.</u></p> |
| <p>c. The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.</p> | <p>SMP 3.8.2(6) prohibits <u>in-water, overwater or floating residences & ADUs;</u>
 Residential Use Table 2-1 prohibits <u>'floating homes' in all SEDs; and</u>
 SMP 11.F.127 definition of <u>'floating house/home' includes citation to RCW 90.58.270 where floating on-water residences and floating homes are defined by statute.</u></p> | <p><u>No action needed.</u></p> |
| <p>d. The Legislature authorizing a new option to classify existing structures as conforming.</p> | <p>SMP 5.1.0(2) establishes that <u>single-family residences and appurtenant structures are considered conforming;</u>
 SMP 11.C.70 definition for <u>'conforming' also includes citation to RCW 90.58.620 where this allowance is established.</u></p> | <p><u>No action needed.</u></p> |

2010

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| <p>a. The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.</p> | <p><u>SMP 7 Note to Users specifies the 'no net loss' standard for shoreline critical areas; SMP 7.1 establishes that critical areas located in shoreline jurisdiction are regulated by the SMP not by CCC27.12 (CAO); SMP 10.6 addresses SMP amendments but does not specify the 14-day effective date per WAC 173-26-120(3.d.i).</u></p> | <p><u>No action needed; SMP amendments become effective 14-days after the date of Ecology's written notice of final action regardless of SMP inclusion.</u></p> |
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2009

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| <p>a. The Legislature created new "relief" procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.</p> | <p><u>SMP does not include the optional process of RCW 90.58.580.</u></p> | <p><u>No action needed; The OHWM relief allowance for restoration in UGAs can still be implemented per statute regardless of SMP inclusion.</u></p> |
| <p>b. Ecology adopted a rule for certifying wetland mitigation banks.</p> | <p><u>SMP 8.3(4) allows for use of approved mitigation banks.</u></p> | <p><u>No action needed.</u></p> |
| <p>c. The Legislature added moratoria authority and procedures to the SMA.</p> | <p><u>SMP does not include moratoria authority per RCW 90.58.590.</u></p> | <p><u>No action needed; The County may rely on the authority established by statute to adopt moratoria regardless of SMP inclusion.</u></p> |

2007

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| <p>a. The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.</p> | <p><u>SMP 11.F.132 definition for 'floodway' relies on effective FEMA FIRMs.</u></p> | <p><u>No action needed.</u></p> |
| <p>b. Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.</p> | <p><u>SMP includes Exhibit A Shoreline Environment Designation Maps and Exhibit B List of SMP Waterbodies.</u></p> | <p><u>No action needed.</u></p> |
| <p>c. Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of</p> | <p><u>SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where fish habitat enhancement projects cite to RCW 77.55.181 that lists kelp,</u></p> | <p><u>No action needed.</u></p> |

RCW 77.55.181.

eelgrass & native oyster
restoration.

Additional corrections

The following changes are necessary to correct scrivener errors and items that were adopted by the County Commissioner, but that did not get changed in the text of the final Shoreline Master Program Ordinance 972 adopted July 20, 2021.

SMP Section	Summary of change	Discussion
SMP 2.5 Resource Conservancy - 2. Purpose	2. Purpose: The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or <u>low-intensity outdoor recreational use- while protecting existing ecological functions and processes.</u>	During Comprehensive Update the Commissioners accepted this change required by Ecology, but it was not updated in the text of the ordinance.
SMP 8.2 Mitigation & NNL - Policy 3	j. Area of undeveloped floodplains/channel migration zone.	During Comprehensive Update the Commissioners accepted this change required by Ecology, but it was not updated in the text of the ordinance.
SMP 11 Definitions – A	25. Aquatic Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 395 <u>365</u> -190-130(<u>21</u>) that occur in the water.	Scrivner error
SMP 8 Mitigation & NNL; and SMP 10 Administrative Procedures	8.2 Policies: 4. The County should use <u>a the checklist application form in Exhibit B</u> to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. 10.2.5 Exemptions from SSDP: 9. All statements of exemption shall be in writing on forms attached to this Program (Exhibit B). As appropriate...	Checklist was removed during the Comprehensive Update, but language was not removed. Department of Ecology had recommended we fix during the Comprehensive Update, but it was overlooked.
Table of Contents	Add ORMA chapters	Section was added during Comprehensive Update review regarding the Ocean Resources Management Act, but was not added to the Table of Contents. Needs to be

SMP Section	Summary of change	Discussion
3.13.2 General Ocean Management Policies	Item 's' formatted to next row	added for reference. Scrivner error
6.3.6 Lake Sutherland Buffer	Duplicative numbering a.ii and aiii	Scrivner error
6.3.6 Lake Sutherland Buffer	Typo at item b. should read maximize, not maxiumum	Scrivner error
11.N	Typo at New Ocean uses, should read See	Scrivner error
11.S	Typo at Single-family, should read including	Scrivner error